IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 28338 of 2004(W)

AGAINST THE ORDER IN EP.72/99 IN OS.40/1986 of PRINCIPAL SUB COURT, KOCHI

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PETITIONER:

KUTTIYAMMA JANAMMA, AGED 82 YEARS,
W/O. LATE C.P.KUNJAN PILLAI, NOW RESIDING AT
ARADHANA, PUTHIYAKAVU VALAVU, TRIPUNITHURA.

BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU

RESPONDENTS:

CORPORATION BANK, MATTANCHERRY, KOCHI-2.

BY ADV. SRI.JACOB VARGHESE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: PHOTOCOPY OF THE PLAINT IN O.S. 801/88 ON THE FILES OF MUNSIFF COURT, KOCHI.

EXT.P2: PHOTOCOPY OF THE OBJECTIONS FILED IN E.P. NO. 72/99

EXT.P3: PHOTOCOPY OF THE DRAFT PROCLAMATION IN E.P. 72/99

/True Copy/

P.A to Judge.

KURIAN JOSEPH , J

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W.P.(C) NO. 28338 OF 2004

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Dated this the 6th day of July, 2007.

JUDGMENT

The writ petition is filed with the following prayer:

> i) issue a writ of mandamus or any other appropriate writ order or direction commanding the Sub Court, Kochi to drop the further proceedings pursuant to Ext.P(3) draft proclamation in E.P 72 of 1999 in O.S. No. 40 of 1986.

There is no counter affidavit.

2. It is the case of the petitioner that in view of the judgment and decree in O.S. No. 801/1988 on the file of the Munsiff Court, Cochin, he cannot proceeded against. There will be a direction to the Munsiff Court, Cochin to consider the objection raised by the petitioner in Ext.P2 and dispose of the same before proceeding with the matter. The interim order passed by this Court on 28.09.2004 will continue till such time.

The writ petition is disposed of accordingly.

KURIAN JOSEPH, JUDGE.

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